



DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, AL 36628-0001

REPLY TO
ATTENTION OF

January 30, 2007

Inland Environment Team
Planning Environmental Division

Ms. Gail Carmody
Ecological Services
U.S. Fish and Wildlife Service
1601 Balboa Avenue
Panama City, Florida 32405-3721

Dear Ms. Carmody:

This letter concerns the execution of Reasonable and Prudent Measure 3 (RPM3) of the *Biological Opinion and Conference Report on the U.S. Army Corps of Engineers, Mobile District, Interim Operating Plan for Jim Woodruff Dam and the Associated Releases to the Apalachicola River* dated September 5, 2006. RPM3 requires the Mobile District to "Develop modifications to the Interim Operating Plan (IOP) that provide a higher minimum flow to the Apalachicola River when reservoir storage and hydrologic conditions permit." The specific terms and conditions for RPM3 require that:

- a. the Mobile District, with the U.S. Fish and Wildlife Service (USFWS) concurrence, initiate IOP drought provisions that identify the reservoir, climatic, hydrologic, and/or listed species conditions that would allow supporting a higher minimum flow in the Apalachicola River, and that identify recommended water management measures to be implemented when conditions reach the identified drought trigger point(s), by January 30, 2007; and
- b. if modifications to the IOP parameters for the months of March through May are adopted as part of the drought provisions, the Mobile District shall assess potential affects to Gulf sturgeon spawning and floodplain inundation. The Mobile District shall provide the models and a biological assessment of the effects of the drought provisions on listed species at least 135 days in advance of implementing the drought provisions in order to reinitiate this consultation relative to any proposed changes in the IOP.

The purpose of RPM3 was to formulate IOP drought provisions that would increase the habitat available to listed species by increasing the minimum flow supported with releases from reservoir storage during most, but not necessarily all, low-flow periods. The drought provision would identify the conditions during extended dry or drought periods when sustaining a higher flow was not prudent, and when a lower flow would be released. Periods of low basin inflow (less than 10,000 cfs) typically occur during the summer and fall. The earliest possible benefit of RPM3 would be realized during the next period of low basin inflow, most likely occurring in the summer of 2007. Therefore, the USFWS and the Mobile District agreed in RPM3 upon adopting drought provisions by January 30, 2007, well before the next likely need for the measure.

Based on modeling completed to date and experience in operating the system, the Mobile District believes that ensuring a minimum flow greater than 5,000 cfs is feasible in most years by storing more water in the reservoirs during the normal refill period than is currently allowed under the IOP, specifically increasing storage to some degree during the months of March through May while still providing protection for sturgeon spawning habitat areas. Based on recommendations developed during consultation discussions with the USFWS, the Mobile District has examined variations upon the IOP that sustain various minimum flows greater than 5,000 cfs in most years consistent with the Water Control Plan, which would be of benefit to the listed mussel species, with minimal effect to Gulf sturgeon spawning habitat during the Spring spawning months. A specific concept for a drought provision was developed in consultation with the USFWS (Concept 3) and was presented to the States of Alabama, Florida, and Georgia and interested stakeholders at a workshop held on December 13, 2007. However, upon completion of the evaluation of the effects of the Concept 3 plan on the criterion used in the Biological Opinion (BO) analyses, a potential tradeoff of adverse effects to floodplain spawning habitat relative to that provided by the IOP and baseline conditions was identified. Therefore, USFWS could not reach a determination that the proposed drought provision would result in a "not likely to adversely affect" determination for habitat for host fish for mussels. As a result, formal Section 7 consultation with the USFWS would be required for further consideration of the Concept 3 drought provision. However, it appears that additional adjustments to the proposed drought provision (e.g., adjustments of the proposed lower threshold for March – May) could be made that may remove this potential for adverse effect to host fish for listed mussel species. These possible adjustments have been discussed with USFWS and it is agreed that they should be further investigated. The Mobile District believes that additional adjustments to the drought provision conceptual plan will yield a set of parameters for a drought provision that achieves the desired beneficial effect of higher minimum flows while avoiding adverse effects on floodplain inundation or other evaluation criteria presented in the BO. The Mobile District intends to complete the evaluations and propose a drought provision that can be implemented before the initiation of Gulf sturgeon spawning operations under the IOP this Spring (March – May). As discussed with Jerry Ziewitz of your staff, it was agreed that the additional analysis for a proposal that can be implemented this spring is preferred. Therefore, we hereby request an extension of the due date for implementation of the RPM3 drought provision from January 30, 2007 to February 28, 2007. This would allow for implementation of the drought provision prior to the initiation of sturgeon spawning operations on March 1.

During the December drought provision workshop, the Mobile District requested comments and recommendations regarding the implementation of RPM3. Several comments regarding the Concept 3 proposal, and alternative concepts for a drought provision, were received. The Mobile District and USFWS are currently reviewing these comments to determine whether elements of the suggestions and concepts presented could provide some benefits in developing a drought provision. However, many of the suggestions and comments received would require more extensive analysis and would require significant changes to the current Water Control Plans. Therefore, the Mobile District and the USFWS agreed to focus efforts to

develop a drought provision that met the intent of RPM3, and could potentially be implemented prior to the 2007 sturgeon spawning season. The Mobile District and USFWS will continue to review certain elements of the stakeholder proposals to determine if they would provide for additional benefits, and if any additional changes to the IOP or RPM3 should be submitted for future consideration consistent with the adaptive management provision (RPM1) of the BO.

The Mobile District is completing the modeling and evaluation of a promising drought provision proposal which appears to avoid or minimize the tradeoff of mussel benefits for floodplain inundation effects. This evaluation will use the same statistical analyses and effects analysis as prepared by the USFWS in the BO.

The Mobile District does not believe that delaying compliance with RPM3 will result in any adverse effects on listed species since the possible need to supplement basin inflow with releases from storage is unlikely in the next two to three months. This assumption is supported by (1) the reservoirs in the lower portion of the ACF basin (Walter F George and West Point) are currently above the rule curve elevations, Lake Lanier is currently near average elevation for this time of year, and the drought monitor no longer projects abnormally dry or drought conditions; (2) it is unlikely that basin inflows occurring over the next four weeks would result in different operations if drought provision measures were in place; and (3) due to the relatively short duration of the requested extension, it is unlikely that a significant difference in benefits would have been realized if the January 30, 2007, date were met.

We request your concurrence with our request for an extension of the RPM3 drought provision due date to February 28, 2007. Should you have any questions, comments, or recommendations, please contact Ms. Joanne Brandt at (251) 690-3260 or Mr. Brian Zettle at (251) 690-2115.

Sincerely,



for Curtis M. Flakes
Chief, Planning and Environmental
Division